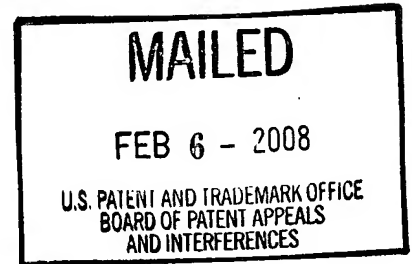


UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte GUY BEVENTE,
MICHAEL THANE-PAQUETTE,
GREGG R. KOEPPEN,
DOUGLAS ROBERT MORAN,
DANNY LEE ROPER,
KIMBERLY RENEE WOLKEN,
And JENNIFER LYNN ANDERSON



Application No. 10/654,859

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was received electronically at the Board of Patent Appeals and Interferences on January 23, 2008. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below.

On November 4, 2006, appellants filed an Appeal Brief. On page 2, under the heading "Grounds of Rejections to be Reviewed on Appeal" the Appellants stated:

- A. Claims 1-16 are unpatentable under U.S.C. 103(a) over U.S. Patent No. 5,771,282 ("Friedes") in view of U.S. Patent No. 6,965,764 ("Plush"), at page 2, paragraph 4 of the Final Office Action.
- B. Claims 17-32 are rejected under 35 U.S.C. 103(a) over Friedes in view of Plush, at page 2, paragraph 4 of the Final Office Action.
- C. Claim 33 is rejected under 35 U.S.C. 103(a) over Friedes in view of Plush, at page 2, paragraph 4 of the Final Office Action.
- D. Claim 34-38 are rejected under 35 U.S.C. 103(a) over Friedes in view of Plush, at page 2, paragraph 4 of the Final Office Action.
- E. Claims 8 and 9 are rejected under 35 U.S.C. 103(a) over Friedes in view of Plush and further in view of U.S. Patent No. 5,844,972 ("Jagadish"), at page 6, paragraph 5 of the Final Office Action.

In response, an Examiner's Answer was mailed on March 21, 2007. While the Answer notes that "The appellant's statement of the grounds of rejection to be reviewed on appeal is correct . . ." [page 2], the Examiner's Answer and the Final Rejection mailed August 11, 2006, the following § 103 rejections were made:

Claims 1-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Friedes (US 5,771,282) in view of Plush (US 6,965,764 B2).

Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Friedes (US 5,771,282) in view of Plush (US 6,965,764 B2) and further in view of Jagadish et al (US 5,844,972).

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A clarification of the claims to be applied under the ground of rejection is required.

Lastly, in the Evidence Relied Upon section, page 2, heading (8), the examiner relied on the following references:

Friedes	5,771,282	6-1998
Plush	6,965,764	11-2005

A review of the file reveals that reference Jagadish (US Patent No 5,844,972) was used in the application of claims 8 and 9, as stated in the Grounds of Rejection, paragraph (9) of the examiner's answer. The Manual of Patent Examining Procedure, in § 1207.02 states:

(8) *Evidence Relied Upon.* A listing of the evidence relied on (e.g., patents, publications, admitted prior art), and, in the case of nonpatent references, the relevant page or pages.

Before further review, the examiner must mail a PTOL-90 that will include in the amended Evidence Relied Upon section, the list of all references mentioned in the statement of rejections. See the Manual of Patent Examining Procedure, (MPEP) § 1207.02. Appropriate correction is required.

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Accordingly, it is

ORDERED that the application is returned to the Examiner:

- 1) to give a proper explanation of the grounds of rejection;
- 2) issue and mail a PTOL-90 having the missing reference listed under the Evidence Relied Upon section, heading (8) of the Examiner's Answer; and
- 3) for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES

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